

### **REMARKS**

This amendment is responsive to the Office Action of September 8, 2008. Reconsideration and allowance of claims 1-16 are requested.

#### **The Office Action**

Claims 1-3, 7-9, 11, and 12 stand rejected under 35 U.S.C. 103 as being unpatentable over Snyder (US 6,287,328).

Claims 4-6 and 10 stand rejected under 35 U.S.C. § 103 as being unpatentable over Snyder in view of Stadler (US 6,397,100).

Claims 13-15 stand rejected under 35 U.S.C. § 102 as being anticipated by Snyder.

Claims 13 and 16 stand rejected under 35 U.S.C. § 102 as being anticipated by Stadler.

#### **The Present Amendment Should Be Entered**

First, the Finality of the Office Action of September 8, 2008 was premature. Amendment B did not amend claims 13-15. Rather, it argued the patentability of claims 13, 14, and 15 over the then-applied 35 U.S.C. § 102 rejection based on Stadler. The Examiner has withdrawn the rejection based on Stadler and made a new ground of rejection based on Snyder relative to claims 14 and 15. Because neither claim 14 nor claim 15, nor their parent claim 13 were amended, it is submitted that the new ground of rejection was not necessitated by applicant's amendment. Because the applicant's amendment did not necessitate the new ground of rejection, it is submitted that the Finality of the September 8, 2008 Office Action is premature. Withdrawal of the Finality of the September 8, 2008 Office Action and entry of this Amendment is requested.

Second, the present amendment only corrects errors of a typographical nature and raises no issues that would require further search or consideration. Claims 7 and 13 have been amended to change "signal" to "signals" for agreement with the preceding language requiring "at least two". Claim 10 has been amended to insert a missing " ," (comma).

**The Claims Are Not Anticipated By  
Or Obvious Over the Applied References**

Claim 1 calls for a global correlation matrix. Snyder does not disclose a global correlation matrix.

Claim 1 calls for a local correlation matrix. Snyder does not disclose a local correlation matrix.

Claim 1 calls for a correlation vector. Snyder does not disclose a correlation vector.

Claim 1 calls for an average of the correlation vector. Snyder does not disclose an average of a correlation vector.

Claim 1 calls for determining whether an artifact was detected in one of the at least two signals from the correlation vector and the average. Snyder does not disclose this subject matter.

In paragraph 8 of the Office Action, the Examiner repeats claim 1 and refers the applicant to column 4, lines 24-41 of Snyder. Column 4, lines 24-41 are part of the Summary of the Invention rather than the Detailed Description. The referenced portion of Snyder does call for a correlator for detecting non-event signals to produce respective correlation signals and an inference processor for analyzing the correlation signals to produce an indication of signal corruption. Significant by its absence is any reference by the Examiner to the detailed description which, theoretically, sets forth the details as to how Snyder determines whether there was any signal corruption.

In paragraph 9 of the Office Action, the Examiner guesses (incorrectly) how Snyder determines whether the signals have been corrupted. If one refers to the Detailed Description of Snyder to find out how the correlation and determination of signal corruption is made, one will find that Snyder specifically admits that he does not describe this process. Rather, Snyder indicates that this process is done using the technique of Lyster (US 5,902,249), a reference which the Examiner has failed to make of record. When one looks at the Lyster technique which Snyder purports to use, one will find that Lyster, like Snyder, discloses none of the above-discussed limitations of claim 1.

Because Snyder specifically teaches that signal corruption should be determined in a materially different way than the improved technique of claim 1, it is submitted that Snyder teaches away from the subject matter of claim 1, and that

**claim 1 and claims 2, 3, 5, and 6 dependent therefrom** distinguish patentably and unobviously over Snyder.

**Claim 4** calls for repeatedly determining a global correlation. Snyder does not disclose this step.

Claim 4 calls for repeatedly determining a local correlation. Snyder teaches neither determining a global nor a local correlation.

Claim 4 calls for repeatedly determining a current deviation. Snyder does not disclose determining a current deviation.

Claim 4 calls for determining an average deviation. Snyder does not disclose determining an average deviation.

Claim 4 calls for determining whether an artifact was detected based on a difference between the current deviation and the average deviation. Snyder teaches against determining whether an artifact was detected based on a difference between the current and average deviation in favor of using the Lyster technique for determining if a signal has been corrupted.

Stadler was not relied upon by the Examiner as disclosing these steps and, indeed, does not cure these shortcomings of Snyder.

Accordingly, it is submitted that **claim 4** distinguishes patentably and unobviously over the references of record.

**Claim 7** calls for determining global and local correlations for at least event signals over first and second time periods, respectively. Snyder makes no suggestion of determining global or local correlations over first and second time periods.

Claim 7 further calls for repeatedly determining a current deviation between the local and global correlation. Snyder does not disclose determining such a current deviation.

Claim 7 calls for determining an average deviation from a plurality of determined current deviations. Snyder does not disclose determining such average deviations.

Claim 7 calls for comparing the current and average deviation to determine whether an artifact is detected. Snyder teaches against determining whether a signal has been corrupted in this manner in favor of using the Lyster technique. Accordingly, it is submitted that **claim 7 and claims 8-12 dependent therefrom** distinguish patentably and unobviously over the references of record.

**Claim 13** calls for means for determining global and local correlations over first and second periods of time of different length. Neither Snyder nor Stadler disclose or fairly suggest such means.

Claim 13 calls for means for determining a local correlation. Neither Snyder nor Stadler disclose such means.

Claim 13 calls for means for determining a deviation between local and global correlation vectors and for determining an average of the deviation. Neither Snyder nor Stadler disclose or fairly suggest such means.

Claim 15 further calls for means for determining whether an artifact was detected based on the average deviation. Neither Snyder nor Stadler disclose such means.

Accordingly, it is submitted that none of **claims 13-16** is anticipated by Snyder or Stadler.

#### **MPEP 2144.03**

To the extent that the Examiner's proposed signal processing technique which is set forth in paragraph 9 of the Office Action (but which is not set forth in the references of record) is to be taken as an assertion of that which is "well-known in the prior art", the applicants respectfully traverses. Pursuant to MPEP 2144.03, the applicant calls for the Examiner to supply references supporting any such assertion that the technique of paragraph 9 of the Office Action is, in fact, prior art.

#### **Failure to Cite a Necessary Reference**

The Examiner relies on Snyder for its technique for determining whether or not a signal has been corrupted. However, Snyder specifically states that it is not itself disclosing such a technique, but rather asserts that it is using the Lyster technique and refers the reader to the Lyster patent. Because the Snyder technique for determining whether one of the signals has been corrupted is actually the Lyster technique, it is submitted that Lyster is a necessary reference which must be made of record.

The applicants are enclosing an appropriate Information Disclosure Statement setting forth the Lyster reference. When the Examiner withdraws the Finality of the September 8, 2008 Office Action as being premature, the Lyster patent should be made of record.

If, the Examiner fails to remove the premature Finality of the September 8 2008 Office Action, then it is requested that and submitted that the Examiner should make the cited Lyster patent of record as being a necessary reference for the understanding of the Examiner's primary reference Snyder.

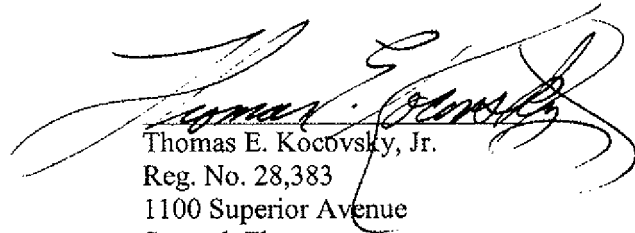
**CONCLUSION**

For the reasons set forth above, it is submitted that claims 1-16 are not anticipated by and distinguish patentably and unobviously over the references of record. An early allowance of all claims is requested.

In the event the Examiner considers personal contact advantageous to the disposition of this case, the Examiner is requested to telephone Thomas Kocovsky at (216) 861-5582.

Respectfully submitted,

Fay Sharpe LLP

A large, stylized handwritten signature in black ink, which appears to read "Thomas E. Kocovsky, Jr.", is written over the printed name and address.

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